

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.200 of 2000

12.12.2007

Between:

G.Peddanna, S/o.Subba Rao

...Petitioner

And

The Revenue Divisional Officer, Guntur

...Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.200 of 2000

ORDER:

Petitioner's land admeasuring Acs.0.64 in survey No.756/1 and Acs.2.91 in survey No.757/1 situated at Prathipadu Village in Guntur District, along with some other land was acquired under Land Acquisition Act, 1894, under Award in proceeding Rc.No.534/92-K, dated 25.3.1996. Petitioner approached respondent and lodged a protest by way of letter dated 23.4.1996. In the said letter, he requested respondent to conduct inspection of the land and pay compensation, in vain. Therefore he got issued a legal notice dated 29.12.1997 to respondent. In the said notice he alleged that when he received the cheque for an amount of Rs.49,500/- hereceived the same under protest and endorsed the same on the counterfoil, and therefore, he requested to refer the matter to Civil Court.

It is unfortunate that though the writ petition was filed in January 2000 and was admitted, respondent has not filed any counter affidavit. Be that as it is, petitioner in the legal notice stated that he received cheque for Rs.49,500/- under protest. A Full Bench of this Court, to which I was a Member, i n **District Collector, Kakinada v P.Nagabhushana Rao**^[1] while considering the question whether the claimants who failed to protest at the time of receiving compensation can file application within the stipulated time seeking a reference to the Civil Court, ruled as under.

Result of conjoint reading of the second proviso to sub-section (2) of Section 31 and Section 18 of the Act is that an application seeking reference under Section 18 of the Act for determination of the amount of compensation can be made by any person interested, who has not accepted the award and who has not received the amount otherwise than under protest. The second proviso to sub-section (2) of Section 31

is couched in negative form and disables a person from seeking reference under Section 18 of the Act in case the amount of compensation is received by him otherwise than under protest. However, the Act nowhere lays down the method, manner or form in which protest has to be lodged by a person receiving the amount of compensation. On one hand right is conferred by Section 18 of the Act “on any person interested”, who has not accepted the award to seek reference to the Court for determination of the amount of compensation, provided application is filed by him within the prescribed period. On the other hand, there is an embargo placed not by the same provision but by the second proviso to sub-section (2) of Section 31 of the Act on such a person, who has received the amount of compensation otherwise than under protest from making such an application for reference under Section 18 of the Act.

... .. In the view we have taken, we answer the reference holding that in the absence of any manner of protest having been specified in the Act and the time when protest is to be lodged, act of filing of an application seeking reference to Civil Court within the period of limitation prescribed under Section 18 of the Act will impliedly infer that the claimant/person interested had accepted the amount with protest. Not expressly lodging protest at the time of receiving amount in such circumstance would not amount to waiver of the right to seek reference under Section 18 of the Act.

Following the above ratio, this writ petition is disposed of, directing respondent to verify the records and if the petitioner endorsed on the counterfoil of the cheque that he is receiving the amount under protest, refer the matter to Civil Court. This exercise may be completed within a period of ten (10) weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and direction, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

December 12, 2007
YS